STATEMENT OF CASE TO DESIGNATE PALESTINIAN ISLAMIC JIHAD (PIJ) AS A TERRORIST ENTITY

PURPOSE

1. The purpose of this paper is to set out the case demonstrating Palestinian Islamic Jihad ("PIJ") (also known as Palestinian Islamic Jihad – Shaqaqi Faction; Palestinian Islamic Jihad – Shallah Faction; Islamic Jihad; Islamic Jihad (in/of) Palestine ; Islamic Jihad – Palestine Faction and Islamic Holy War; Harakat al-Jihad al Islam fi Filistin; Jihad al-Islami; Abu Ghunaym Squad of the Hizbollah Bayt al-Maqdis), including its military wing, the al-Quds Brigades (also known as the Saraya al-Quds (Jerusalem Battalions); Saraya al-Mujhadeen; and Al-Awdah Brigades), meets the statutory criteria for designation as a terrorist entity within New Zealand pursuant to the Terrorism Suppression Act 2002 ("TSA").

2. The paper concludes that PIJ meets the criteria for designation as a terrorist entity under the TSA.

STRUCTURE OF THIS PAPER

3. This paper sets out background information about PIJ covering various aspects of the organisation including its objectives, tactics, weapons and structure, before detailing two case studies of attacks which meet the definition of a terrorist act under the TSA.

4. The discussion preceding the case studies provides background about PIJ which helps inform the analysis of the specific attacks in the case studies below. The attacks detailed in the two case studies represent attacks attributed to and/or claimed by PIJ. It is these two attacks that have been analysed as meeting the definition of a "terrorist act" under s 5 of the TSA, and which provide the basis for the paper's conclusion that PIJ meets the legal criteria for designation as a terrorist entity under the TSA.

STATUTORY CRITERIA FOR THIS DESIGNATION UNDER THE TSA

5. The Prime Minister has the power under the TSA to designate individuals or groups as terrorist entities. Section 22 provides that the Prime Minister may designate an entity as a terrorist entity if the Prime Minister believes on reasonable grounds that the entity has knowingly carried out, or has knowingly participated in the carrying out of, one or more terrorist acts.

6. A “terrorist act” is defined in s 5 of the TSA. A number of different acts fall within this definition. The s 5 criteria relevant to this paper are those which deem an act to be a “terrorist act” if that act:

6.1 Is intended to cause the death of, or serious bodily injury to, one or more persons; and

6.2 Is carried out for the purpose of advancing an ideological, political, or religious cause; and

6.3 Is intended to either:

6.3.1 Induce terror in a civilian population; or
6.3.2 Unduly compel or force a government or an international organisation to do or abstain from doing any act; and

6.4 Is not an act that occurs in a situation of armed conflict and is, at the time and in the place that it occurs, in accordance with rules of international law applicable to the conflict.

CREDIBILITY OF SOURCES

7. This paper has been prepared using open or unclassified sources which have a reputation for careful and unbiased reporting. These are: the Jane’s series (World Insurgency & Terrorism, Terrorism & Security Monitor, Intelligence Review, and Missiles and Rockets); Council on Foreign Relations; International Crisis Group; Amnesty International; The New York Times; the BBC; The Washington Post; The Guardian; Reuters; United Nations High Commissioner for Human Rights; the Washington Institute of Near East Policy; and Human Rights Watch. This paper also utilises public information from the US Department of State and the Israeli Foreign Ministry, as well as the Report of the United Nations Fact-Finding Mission on the Gaza Conflict ("the Goldstone Report"), a range of regional media sources including Al Jazeera, Haaretz and the Jerusalem Post, and the multiple websites of PIJ and the al-Quds Brigades.

BACKGROUND

Establishment and history of PIJ

8. PIJ was formally established in Gaza in 1981 by two Palestinian activists: Dr Fathi abd al-Aziz Shaqaqi, a Rafah-based physician, and Shaykh Abd al-Aziz Awda, an Islamic preacher from the Jabaliyya refugee camp.1 Based in Egypt, Shaqaqi and Awda were originally members of the Muslim Brotherhood.2 Their views on the destruction of Israel, however, led them in 1979 to establish Islamic Jihad - Shaqaqi Faction, a branch of the Egyptian Islamic Jihad. The Shaqaqi Faction was expelled from Egypt in 1981 following the assassination of Egypt’s President Anwar Sadat by the Egyptian Islamic Jihad. Shaqaqi and Awda returned to Gaza where they formally established PIJ.3

9. PIJ was not concerned with mass-mobilisation and did not provide basic welfare services to the Palestinian people, like many other groups operating in the occupied territories, including the Palestinian Liberation Organisation (PLO) and later Hamas.4 Their whole focus was on “exemplary armed attacks” against the Israeli “occupiers.”5 PIJ began its armed operations against Israel in 1984.6

10. In October 1988 Shaqaqi was expelled to Lebanon by Yasser Arafat’s PLO, where he established close links with Hizbollah and the Iran’s Revolutionary Guards Corps.7 Iran became PIJ’s major financial backer8 while Hizbollah provided PIJ fighters with training facilities, logistical aid, and facilitated the expansion of PIJ’s networks into the Palestinian refugee camps in Lebanon.9 In 1989 Shaqaqi moved PIJ’s headquarters to its current location in Damascus.10

11. In 1992, during the first Intifada, PIJ’s armed wing, the al-Quds Brigades (Saraya al-Quds or Jerusalem Battalions) was formally established to bring coherence and unity
to the various armed factions that had until that point been operating separately under the banner of Islamic Jihad.\textsuperscript{11}

12. In 1993 the PLO renounced violence against Israel and signed up to the Oslo Accords, ending the first Intifada. PIJ proclaimed this as “a betrayal of Palestinian and Islamic rights” and began launching more frequent attacks against Israel, “in a race to end the peace process.”\textsuperscript{12} PIJ and Hamas’ joint campaign of suicide bombings during the mid-1990s nearly succeeded in derailing the negotiations.\textsuperscript{13}

13. Over the next five years PIJ’s activities, under the new leadership of Damascus-based Dr Ramadan Abdullah Shallah\textsuperscript{14}, were constrained by the Palestinian National Authority. However, the beginning of the second Intifada in late 2000 provided an environment conducive to the PIJ agenda, facilitating fresh funding, recruitment and terrorist activities.\textsuperscript{15} Some of these activities are detailed in subsequent sections.

14. PIJ refused to participate in the 2006 legislative elections, claiming that “at least one movement would continue to devote its entire energies to the liberation of Palestine.”\textsuperscript{16} After Hamas won the elections, PIJ sought to capitalise on public perception that Hamas and Fatah were embroiled in a bitter factional dispute and that PIJ alone was the ‘vanguard of the resistance.’\textsuperscript{17}

15. While PIJ offered its conditional support to ceasefires in 2003, 2005, 2006, 2008 and 2009, it has always been amongst the first to revert to reprisals, asserting that Israel had first violated ceasefire conditions.\textsuperscript{18} In 2010 PIJ has continued a campaign of rocket fire at Israeli towns and armed attacks against Israeli security forces.\textsuperscript{19}

16. PIJ has been proscribed as a terrorist organisation by Australia, Canada, Israel, Japan, the United Kingdom and the United States. It has also been designated by the European Union for the purpose of asset freezing.

**Ideology and objectives of PIJ**

17. PIJ’s strategic objective remains unchanged since its founding: the complete ‘liberation of Palestine’ as defined by the borders of the pre-1948 British mandate (i.e. all of contemporary Israel, West Bank and Gaza).\textsuperscript{20} PIJ refuses to participate in the political process and considers the destruction of the state of Israel through armed ‘resistance’ the only viable strategy for achieving their objective.\textsuperscript{21} In late 2009, PIJ Secretary General Shallah said in an interview with Al Jazeera that, “I consider that the entire land of Palestine is ours and that [the ‘Zionists’] have no right to build so-called Israel as a Jewish state on that land.”\textsuperscript{22}

18. PIJ considers itself a “revolutionary vanguard” whose armed attacks will inspire the Palestinian people to follow its example and will unite the Arab and Muslim worlds against Israel.\textsuperscript{23} PIJ is also an Islamist movement, seeking the establishment of an Islamic state of Palestine.\textsuperscript{24}

**Organisation and structure of PIJ**

19. PIJ is highly secretive about its organisational structure, and as such an accurate estimate of its size and strength is difficult to make. Most estimates put PIJ’s total numbers at between 1000-2000 personnel, with a core leadership of 50-200, spread between the full-time political leadership in Damascus, and political representatives, al-Quds Brigades commanders and part-time local fighters in Lebanon, West Bank
and Gaza. The majority of PIJ’s members are recruited from within Gaza and the West Bank, but also from the Palestinian refugee communities in Lebanon and Syria.

20. PIJ’s political leadership in Damascus comprises Secretary General Dr Ramadan Abdullah Shallah, Deputy Secretary General Ziyad al-Nakhalah (responsible for PIJ activities in Lebanon), and the group’s supreme organisational body, the General Bureau or Shura (Al-Maktab al-Am). This body comprises eight people, including PIJ’s religious leader and co-founder Shaykh Abd al-Aziz Awda. The General Shura approves all appointments to the Political Bureau, the organisation’s ‘daily executive political leadership’ in Damascus, based on nominations from local Shuras in Gaza, West Bank and Lebanon.

21. While the organisation’s leadership resides in Damascus, PIJ’s membership is concentrated in the Palestinian Territories, predominantly in Gaza. Out of necessity the organisation has in recent years operated informally and frequently clandestinely. While it is known that two of PIJ’s senior Gaza-based leaders, Dr Muhammad al-Hindi and Shaykh Nafidh Azzam, are members of the Damascus-based Political Bureau, it is less clear to what extent the Damascus-based leadership exercises command and control over PIJ activities in Gaza and the West Bank, particularly the activities of the al-Quds Brigades. They do, however, condone and encourage the use of violence against Israel as the core tactic of the ‘resistance’, and attacks are often claimed by the PIJ leadership and the al-Quds Brigades on the group’s multiple websites.

22. The al-Quds Brigades fighters are organised into small, decentralised cells, with a greater level of autonomy than was the case during the height of the organisation’s suicide bombing campaign during the first and second Intifadas. Abu Ahmed is the Brigades’ Gaza spokesman and it is believed that Khalid al-Batsh and Khalid Habib are leading PIJ political figures with strong links to the al-Quds Brigades. Over recent years Israel security forces have successfully captured and killed dozens of al-Quds commanders and fighters, including around 34 killed during the Israeli incursion into Gaza and two suspected commanders killed near Jenin in the West Bank in March 2010.

Relations with other militant groups

23. Within the occupied Palestinian territories PIJ’s alliances are relatively fluid. While it has at different times cooperated with Hamas, PIJ tends to align more closely with the Fatah-affiliated Al Aqsa Martyrs Brigades. Militarily cooperation between the al-Quds Brigades and Izz al-Din al-Qassam Brigades (the ‘military’ wing of Hamas) is close during times of conflict and many of the traditional Palestinian resistance movements have in recent years conducted joint attacks or at least coordinated their attacks against Israel. These include the Al Aqsa Martyrs Brigades, the Popular Front for the Liberation of Palestine (General Command) and the Popular Resistance Committees. While PIJ is not directly supportive of Salafist, Al-Qaida-inspired groups, it also believes “the arena of resistance in Palestine is big enough for everyone.”

24. In recent years, Hamas, which Israel holds as solely responsible for the security situation in Gaza, has sought to reign in militant groups operating in the Gaza Strip. Throughout 2009 several PIJ militants were arrested by Hamas for firing rockets into
Israel. In April 2010 four PIJ fighters, who were “planning a qualitative operation” against Israel, were detained by Hamas and only released after they were forced to sign documents saying they would not fire any more rockets. PIJ leaders have responded by saying “launching homemade projectiles is [part of] their right and duty to resist Israel.”

Weapons and tactics

25. Despite its relatively small size, PIJ is considered to be one of the more effective of the Palestinian militant groups. Over the years PIJ’s ‘military wing’, the al-Quds Brigades, has used a range of guerrilla tactics and weapons in its actions against Israel, including suicide bombers, car bombs, rockets, mortars and small arms fire.

26. The tunnels connecting the Gaza Strip to Egypt through the Sinai give PIJ in Gaza greater opportunity to acquire and stockpile weapons (such as AK-47 assault rifles, sniper rifles, RPGs, mortars etc.) and explosives than in the West Bank, where Israeli and Palestinian National Authority security forces have successfully limited operations.

27. Between 2001 and 2007 PIJ was responsible for approximately 25 suicide attacks inside Israel, resulting in the deaths of more than 140 people, most of whom were either civilians or off-duty soldiers. The majority of these attacks occurred between 2001 and 2003 as Israeli security since then has limited the ability of potential suicide bombers to move freely throughout the region. PIJ’s last suicide attack happened on 29 January 2007 at a bakery in the Red Sea resort of Eilat, killing three Israelis. On their website, the al-Quds Brigades continue to celebrate the anniversaries of many of these attacks, holding up as heroes of the resistance those who have carried out suicide bombngs (“Martyrdom operations”) inside Israel.

28. In recent years, PIJ’s main weapon and tactic has been rocket fire into southern Israel. This has predominantly been with ‘Quds’ rockets (the same as the ‘Qassam’ rocket used by the Izz al-Din al-Qassam Brigades). Ninety percent of the rockets are locally made using raw materials from basic civilian industries or materials imported or stolen from inside Israel. The equipment used to manufacture them does not require advanced technology and can be found in simple metal workshops and garages. One PIJ member claimed that the organisation could produce up to 100 rockets in a night, with each rocket costing around NZ$900 for raw materials.

29. More recently PIJ is known to have conducted joint operations with the Izz al-Din al-Qassam Brigades using the longer-range Katyusha-type ‘Grad’ rockets (the components of which are smuggled into Gaza where they are assembled). The range of upgraded versions of the Grad rockets is such that now about 15 percent of the Israeli population (about 40 km into southern Israel) is within range.

30. Through developments over the past eight years PIJ rocket makers have developed a new rocket fuel that allows the rockets to be stockpiled for longer, and for them to fly further. Although PIJ has been under strong pressure from Hamas to not fire rockets at Israel, and to an extent has acquiesced to that pressure, PIJ’s leadership continues to promote their use of rockets as ‘an effective tool of the resistance.’ For example, in March 2010, PIJ Secretary General, Ramadan Abdullah Shallah said in an interview that, “there are no settlements in Gaza. The Israelis have departed
Gaza, and targeting the enemy is no longer possible except by firing missiles and other projectiles at the 1948 areas."57

31. Since the ceasefire in January 2009 following the Israeli incursion into Gaza, PIJ has continued to use violence, engaging in sporadic small arms clashes with the Israeli security forces58 and has claimed responsibility for firing a small number of rockets and mortars into the western Negev region of Southern Israel.59

Recent events

32. In 2010 there have been a number of incidents that demonstrate PIJ continues to espouse the use of indiscriminate violence against Israel to further its political and religious agendas. In January three PIJ members were killed by Israeli security forces as they prepared to fire rockets into Israel from a field often used for such attacks.60 Twenty mortars and rockets had reportedly been fired into Israel the previous week.61 On 1 June 2010, three PIJ fighters were killed in an Israeli airstrike after they had fired two rockets into open ground.62

CASE STUDIES

Rocket campaign into southern Israel continuing into 2008 and 2009

The facts

33. Rocket fire into southern Israel has been used by PIJ and its al-Quds Brigades, alongside other militant groups operating out of Gaza, since February 2002. Over that time, PIJ and the al-Quds Brigades have claimed responsibility for hundreds of rockets fired at towns in southern Israel.

34. Official Israeli sources say that between 2002 and December 2008 (prior to the Gaza conflict) 4048 rockets were fired into Israel.63 In 2007 and 2008 there was a significant increase in the number of rockets fired – in 2007 there were reportedly 896 rockets and 749 mortars fired into Israel and in 2008, according to the official Israeli summary, at least 1750 rockets and 1,500 mortars were fired (329 of which were fired during the ceasefire of 19 June to 19 December 2008).64

35. PIJ claims that in March 2008 it fired: 216 rockets and mortar shells at “Zionist towns and posts” including the town of Sderot; 6 RPGs; and detonated multiple roadside bombs.65 In June 2008 it was the first group to break the ceasefire, claiming responsibility for firing three rockets into the western Negev, following the death of one of its members, Tarek Aby Ghally.66

36. PIJ and the al-Quds Brigades also used rocket fire during the Gaza conflict in December 2008 and January 2009, claiming responsibility for firing 262 rockets into Israel.67 Official Israeli sources claim that, in all, 571 rockets and 205 mortars were fired from 27 December 2008 to 18 January 2009. These rockets killed 3 Israeli civilians, with 11 people suffering moderate injuries and 167 light injuries.68

37. All of the rockets fired from Gaza, both before and during the conflict, lack precision and were very loosely aimed at cities and towns in southern Israel, such as Sderot, Netivot, Ashqelon and Beershiva.69 There is no ability to accurately aim or predict the trajectory of the Quds rockets. Most of these rockets landed on unoccupied land but some hit civilians and civilian property. Many have even landed...
inside the Gaza Strip, killing and injuring Palestinian civilians.\(^7\) Human Rights Watch reported in August 2009 that Israeli security forces were rarely in the areas struck by the rockets.\(^7\)

38. Rockets fired between 2001 and May 2009 have killed 18 civilians (including two young Palestinian children on 26 December, 2008),\(^7\) injured hundreds, and also destroyed and damaged property including houses, schools, kindergartens, a synagogue and cars.\(^7\) The mental harm (predominantly shock and anxiety disorders) the constant rocket fire has caused across all sectors of the population in the targeted towns and cities is also well documented.\(^7\) Those towns and cities most affected by the rocket fire now use the Tseva Adom early warning system that alerts residents to an incoming rocket, giving them between 10 and 40 seconds to get to a bomb shelter. The system does not, however, recognise all incoming rockets and is soon to be complemented with the Israeli rocket and missile defence shield, ‘Iron Dome’.\(^7\)

The act meets the TSA criteria for designation

39. PIJ’s campaign of rocket fire into southern Israel, continuing into 2008 and 2009, is consistent with the definition of a terrorist act under s 5 of the TSA.

40. PIJ’s firing of rockets at towns and cities in southern Israel shows an intention to cause the death, or serious bodily injury, of the people living in those places (s 5(3)(a) TSA). Although often no physical damage results from a rocket attack, the rockets used by PIJ carry sufficient explosive material to cause significant damage to property and to kill or injure people caught in the explosion or hit by flying shrapnel, as has happened on a number of occasions. PIJ has continued to fire rockets into southern Israel over many years despite the civilian casualties caused. The likelihood of a rocket causing civilian death, injury or property damage is increased by the inability to accurately aim the rockets and the large numbers of rockets that were being fired through 2008 and 2009. Further, statements by PIJ spokespeople claiming responsibility for firing rockets at “Zionist towns and posts” reinforce that the rockets are fired with the intention to kill or injure Israeli civilians and that PIJ will continue to use rockets as their primary weapon.

41. The nature and consistency of the rocket fire through 2007 and most of 2008, and the well documented impact it has had on those living within range of the rockets, demonstrates that it was done with the intent to induce terror in a civilian population (s 5(2)(a)TSA). Further, PIJ’s endorsement of rocket attacks as a valid tool in their campaign of ‘resistance’ against Israel (see paragraphs 24 and 30 above) illustrates that the attacks were committed with the intent to compel the Israeli government to withdraw from the occupied Palestinian territories (s 5(2)(b) TSA) and were carried out for the purpose of advancing the group’s religious/political cause (s 5(2) TSA).

Shooting of security guards at Nitzanei Shalom Industrial Park, Israel, 25 April 2008

The facts

42. Two Israeli security guards working for a private firm were shot at close range and killed at around 7am on 25 April 2008 as they were screening Palestinian workers arriving for work at the Nitzanei Shalom Industrial Park.\(^7\) A third guard escaped uninjured. PIJ claimed responsibility for the attack, claiming in an interview with an Israeli news agency that the fighters had escaped from prison only days earlier. The gunman, who shot the guards at the entrance to the Park, escaped with only slight
injuries. The Park is situated on the Palestinian side of the West Bank border with Israel and houses Israeli-owned factories. It was constructed in 1995 to provide jobs for Palestinians living in the West Bank.

43. The attack has been attributed by a range of sources to both the al-Quds Brigades and the Izz al-Din al-Qassam Brigades working together. PIJ was first to claim responsibility for the attack, stating it was “a natural response to the Israeli assaults and ongoing crimes against the Palestinian people.” Hamas’ al-Qassam Brigades followed shortly afterwards.

44. At the time of the attack Mahmoud Abbas, President of the Palestinian National Authority, was in Washington discussing peace negotiations with Israel. Riad Al-Malki, the Palestinian Foreign Minister, said that the attack was designed to undermine the Palestinian Authority’s ability to control security in the West Bank and embarrass the Authority during talks in the US.

The act meets the TSA criteria for designation

45. The shooting of the security guards at Nitzanei Shalom Industrial Park is consistent with the definition of a terrorist act under s 5 of the TSA.

46. The targeted nature of the shooting clearly shows an intention to cause the death or serious bodily injury of the civilian security guards (s 5(3)(a) TSA). As noted above at paragraph 27, PIJ lauds attacks (such as suicide bombings) on Israeli civilians as heroic acts of ‘resistance’ against Israel. This attack is thus another example of PIJ’s pursuit of its longstanding objective to compel, through the use of violence and terror against the civilian population, Israeli withdrawal from the Occupied Palestinian Territories (s 5(2)(b) TSA). Further, the timing of the attack during the Fatah-led Palestinian Authority’s peace negotiations with Israel in the US, and its location close to the Fatah-led West Bank, shows an intention to undermine the Palestinian National Authority’s credibility and its peace negotiations, consistent with the PIJ’s view that armed resistance is the only viable strategy for Palestinians. Both as an attempt to undermine peace negotiations and as a form of ‘resistance’ against Israel, this attack was also clearly carried out to advance PIJ’s own political/religious cause (s 5(2) TSA).

LAW OF ARMED CONFLICT

47. Section 5(4) of the TSA provides that an act is not a terrorist act if “it occurs in a situation of armed conflict and is, at the time and in the place that it occurs, in accordance with the rules of international law applicable to the conflict.”

Does LOAC apply?

48. The first condition to fulfil is that there is a situation of armed conflict to which the law of armed conflict (“LOAC”) applies.

49. The legal status of Gaza and the conflict between Palestinian resistance groups and Israel is difficult to determine given competing international views and the disputed nature of the land. Gaza is part of the occupied Palestinian territories and Israel exercises some control over that territory, although the Palestinian Authority (de facto Hamas) controls internal matters. During the 2008/2009 Israeli incursion
into Gaza there was also an armed conflict. The law of armed conflict makes a key
distinction between armed conflict and other internal disturbances or tensions such
as riots and isolated and sporadic acts of violence.\textsuperscript{81} The level, kind and consistency
of violence during the incursion clearly met the threshold of an armed conflict.\textsuperscript{82} It is
not clear though whether that conflict is an international or non-international one
given the difficulties noted above. It is probably most accurately characterised as a
mixed conflict, with characteristics of both international and non-international
conflicts. In comparison, the rocket fire and other violent clashes between the PIJ
and the Israeli Defence Forces and security forces outside of the combat period
likely do not meet the threshold to be considered an armed conflict. Taking all of
these arguments at their highest, this analysis continues on the basis that, in Gaza
during the time when the rocket attacks discussed in the first case study above took
place, there have been periods during which an armed conflict can reasonably be held
to have occurred such that LOAC applies.

50. In contrast, there was no armed conflict inside of Israel at the time of the shooting at
Nitzanei Shalom Industrial Park (April 2008), detailed in the second case study
above. That attack was an isolated instance of violence that does not pass the armed
conflict threshold and so LOAC does not apply. For that reason the exemption in
s 5(4) of the TSA cannot apply.

\textit{Were the acts carried out in accordance with the applicable rules of LOAC?}

51. The relevant LOAC principle is that of distinction.\textsuperscript{83} That principle states that
attacks on enemy combatants and military targets are lawful, whereas attacks on the
civilian population, civilian objects and people rendered \textit{hors de combat} are not.\textsuperscript{84} The
PIJ’s rockets were fired towards towns and cities that held no military value and were
targeted at Israeli civilians (see paragraphs 37 and 38 above) and so breached the
LOAC principle of distinction. The exemption in s 5(4) of the TSA cannot therefore
apply to the PIJ’s rocket campaign. Even if the rockets were aimed at some military
objective, they are impossible to aim (see paragraph 37 above) and therefore an
indiscriminate attack prohibited by LOAC.\textsuperscript{85}

52. Lastly, even if it could be said that there was an armed conflict inside of Israel at the
time of the Nitzanei Shalom Industrial Park shooting, the attack targeted civilians
and so also breached the LOAC principle of distinction. The exemption in s 5(4) of
the TSA cannot apply.
2. ‘Palestinian Islamic Jihad or Islamic Jihad Movement in Palestine (PIJ)’, Transnational and Non-State Armed Groups: Legal and Policy Responses, wwwarmed-groups.org, last accessed 11 June 2010;

As students at Zaqaziq University in Egypt during the 1970s, Shaqaqi and Awda were heavily influenced by the teachings of Sayyid Qutb, one of the most prominent Islamic intellectuals of the Muslim Brotherhood during the 1950s and 60s. He was critical of both the divisions within Islam, which he believed had degraded Muslim society, and western society, which he believed was obsessed with materialism and violence. His ideas laid the foundation for modern Islamism, and some of his earlier followers included Osama Bin Laden, Dr Ayman al-Zawahiri and Abdullah Azzam, founding members of Al-Qaeda. But whereas the Brotherhood believed the establishment of the Islamic caliphate should precede the destruction of Israel, Shaqaqi saw the existence of Israel as being, “a source of moral and spiritual corruption that prevented Muslims from remedying the malaise of their society.” Inspired by the 1979 Iranian Revolution and the teachings of Ayatollah Khomeini, he sought to combine Islamism with Palestinian nationalism in order to create a new revolutionary movement to overthrow Israel and, in the process, establish an Islamic state of Palestine. This, he believed, would better meet the Brotherhood’s objective of uniting the Islamic world than engaging in politics.

See above note 1,

1. (i); ‘Political Parties and Organisations’, Encyclopedia of the Middle East;
2. (ii); ‘Palestinian Islamic Jihad or Islamic Jihad Movement in Palestine (PIJ)’, Transnational and Non-State Armed Groups; and
3. (iii); ‘Palestinian Islamic Jihad’, Jane’s World Insurgency and Terrorism.


above note 1 (i); ‘Political Parties and Organisations’, Encyclopedia of the Middle East.

There were also six other factions of Islamic Jihad operating in the occupied territories at that time. The most prominent was the Tamimi Jerusalem Brigade, the Islamic Jihad Battalions, and the Amar faction of the Islamic Jihad.


See above note 1 (iii); ‘Palestinian Islamic Jihad’, Jane’s World Insurgency and Terrorism.

See above note 1 (i); ‘Political Parties and Organisations’, Encyclopedia of the Middle East.

See above note 1 (iii); ‘Palestinian Islamic Jihad’, Jane’s World Insurgency and Terrorism.


See above note 1 (i); ‘Political Parties and Organisations’, Encyclopedia of the Middle East.

See for example:

1. ‘Official says Palestinians Proud of ties with Iran’, IRNA, 28 February 2010, BBC Monitoring Middle East, 1 March 2010; and

See above note 1 (ii); ‘Palestinian Islamic Jihad or Islamic Jihad Movement in Palestine (PIJ)’, Transnational and Non-State Armed Groups.

See above note 1 (i); ‘Political Parties and Organisations’, Encyclopedia of the Middle East.

See above note 1 (iii); ‘Palestinian Islamic Jihad’, Jane’s World Insurgency and Terrorism.
PIJ's founder, Fathi Shaqaqi, was assassinated in Malta in 1995 by Israeli secret intelligence agents. Some analysts have claimed that PIJ has never fully recovered from his death, however under the new leadership of Shallah PIJ's attacks against Israel dramatically increased.

See above note 1,

i. (i); ‘Political Parties and Organisations’, Encyclopedia of the Middle East;

ii. (ii); ‘Palestinian Islamic Jihad or Islamic Jihad Movement in Palestine (PIJ)’, Transnational and Non-State Armed Groups; and

iii. (iii); ‘Palestinian Islamic Jihad’, Jane’s World Insurgency and Terrorism.

See above note 1 (iii); ‘Palestinian Islamic Jihad’, Jane’s World Insurgency and Terrorism.

See above note 1 (iii); ‘Palestinian Islamic Jihad’, Jane’s World Insurgency and Terrorism.

See above note 1 (i); ‘Political Parties and Organisations’, Encyclopedia of the Middle East; and

ii. (i); ‘Palestinian Islamic Jihad’, Jane’s World Insurgency and Terrorism; and


See above note 1 (iii); ‘Palestinian Islamic Jihad’, Jane’s World Insurgency and Terrorism.

See above note 17 (iii); Israeli Intelligence and Terrorism Information Centre.

See above note 1 (iii); ‘Palestinian Islamic Jihad’, Jane’s World Insurgency and Terrorism.


See above note 1 (iii); ‘Palestinian Islamic Jihad’, Jane’s World Insurgency and Terrorism.

i. While PIJ is an Islamist movement, it is not Salafist in its interpretation of Islam, and therefore does not call for the complete rejection of modern society as do groups such as Al-Qaeda.

ii. The PIJ emblem encapsulates both the political and religious agendas of the group. It shows a map of the land they claim as Palestine (roughly, present-day Israel, the West Bank and the Gaza Strip) superimposed on the images of the ‘Dome of the Rock’ (the most holy Islamic site in Jerusalem), two fists and two rifles. Dark green Arabic text immediately above the images reads “Allah-u-Akbar” (God is great) while the main text quotes verse 29:69 (related to jihad) from the Qur’an: “As for those who strive [jihadoo – jihad] in our cause, we will surely guide them in our paths. Most assuredly, God is with the pious.” United States Anti-Defamation League, http://www.adl.org/terrorism/symbols/palestinian_islamic_jihad.asp, last accessed 28 May 2010.

iii. Note: the use of the word jihad is open to varying interpretations. Jihad literally means “to struggle” or “to strive.” It is a religious duty of all Muslims “to strive” for a greater personal understanding of God and towards greater service of God. In this context it is an ‘internal struggle’. While jihad has also historically been used as the basis for violent conflict, usually in defence of the religion, extremist groups such as Al-Qaeda promulgate the idea that it is the religious duty of all Muslims to wage ‘violent jihad’ against ‘non-believers’, Israel and the United States.

See above note 1 (i); ‘Palestinian Islamic Jihad’, Jane’s World Insurgency and Terrorism;

ii. (ii); ‘Palestinian Islamic Jihad or Islamic Jihad Movement in Palestine (PIJ)’, Transnational and Non-State Armed Groups; and

ii. above note 1 (iii); ‘Palestinian Islamic Jihad’, Jane’s World Insurgency and Terrorism;  
iii. above note 1 (i); ‘Political Parties and Organisations’, Encyclopedia of the Middle East;  
iv. above note 1 (ii); ‘Palestinian Islamic Jihad or Islamic Jihad Movement in Palestine (PIJ)’, Transnational and Non-State Armed Groups; and  

27 Dr Ramadan Abdullah Shallah and Sheik Abd al Aziz Azda are both on the FBI’s most wanted terrorists list.


29 See:  
i. above note 1 (iii); ‘Palestinian Islamic Jihad’, Jane’s World Insurgency and Terrorism;  
ii. above note 1 (ii); ‘Palestinian Islamic Jihad or Islamic Jihad Movement in Palestine (PIJ)’, Transnational and Non-State Armed Groups; and  
iii. above note 28; ‘Unprecedented Meeting by Jihad Reviews Movement’s Course, Structures’.

30 See above note 1 (iii); ‘Palestinian Islamic Jihad’, Jane’s World Insurgency and Terrorism.

31 See above note 28; ‘Unprecedented Meeting by Jihad Reviews Movement’s Course, Structures’.

32 Refer:  
i. (PIJ main website) www.qudsway.ir / www.qudsway.net / www.qudsway.com;  
iii. (PIJ news) www.qudsnews.net / www.paltoday.com;  
iv. (other websites) www.shikaki.net / www.falestiny.net.  
v. Refer also the Intelligence and Terrorism Information Center at the Israel Intelligence Heritage & Commemoration Center (IICC), www.terrorism-info.org.il.

33 See above note 1 (ii); ‘Palestinian Islamic Jihad or Islamic Jihad Movement in Palestine (PIJ)’, Transnational and Non-State Armed Groups.


ii. above note 1 (iii); ‘Palestinian Islamic Jihad’, Jane’s World Insurgency and Terrorism.


37 See above note 1 (iii); ‘Palestinian Islamic Jihad’, Jane’s World Insurgency and Terrorism.

38 During the early 1990s PIJ’s founder, Fathi Shaqaqi, unsuccessfully sought an alliance with Hamas so as to consolidate the resistance movement. Hamas was reluctant to go down that route, having developed an active political branch and a network of religious and welfare institutions to create a counter-weight to the PLO. Since Hamas’ 2006 election victory and their declaration of several ceasefires, PIJ has viewed themselves as the only true resistance movement; “PIJ will continue on [its] own path, even if Hamas rejects its militant principles.” See above note 20; ‘PIJ and the New Political Landscape’, Jane’s Intelligence Review.

39 See above note 1 (iii); ‘Palestinian Islamic Jihad’, Jane’s World Insurgency and Terrorism.

40 See above note 36; ‘Palestinian Factions United by War’, Al Jazeera.

41 The Popular Resistance Committees (PRC) is a coalition of Palestinian resistance movements. Its military wing, the An-Nasser Salah ad-Din Brigades, is made up of predominantly ex-Al Aqsa Martyrs Brigades fighters, with some ex-Popular Front for the Liberation of Palestine-General Command, Izz al-Din al-Qassam Brigades and al-Quds Brigades fighters. See: ‘Popular Resistance Committees’, Encyclopedia of the Middle East, Mideast web, www.mideastweb.org/Middle-East-Encyclopedia/popular_resistance_committees.htm

42 ‘Shallah to Al-Hayat: Withdrawing the Arab initiative is the minimum reply by the summit to the Israeli aggression’, Interview with Ibrahim Hamaydi, Al-Hayat, date not given, BBC Monitoring Middle East, 25 March 2010.

43 See:
i. ‘Gaza Militant: Stopping Rocket fire into Israel’, Avi Issacharoff, Haaretz, 12 April 2010;
ii. ‘Islamic Jihad: Hamas has secret ceasefire agreement with Israel’, Ma’an news, 12 April 2010, in ‘Palestinian Islamic Jihad says Members Arrested in “Secret” Hamas-Israel Deal’, BBC Monitoring Middle East, 13 April 2010;
iii. above note 21; ‘PIJ and the New Political Landscape’, Jane’s Intelligence Review; and

44 See above note 1 (iii); ‘Palestinian Islamic Jihad’, Jane’s World Insurgency and Terrorism.

45 See above note 1 (iii); ‘Palestinian Islamic Jihad’, Jane’s World Insurgency and Terrorism.

46 See above note 1 (iii); ‘Palestinian Islamic Jihad’, Jane’s World Insurgency and Terrorism.

47 See:
i. above note 26 (i); ‘Palestinian Islamic Jihad’, Council on Foreign Relations;
iii. above note 1 (iii); ‘Palestinian Islamic Jihad’, Jane’s World Insurgency and Terrorism.

48 See:
above note 26 (i); ‘Palestinian Islamic Jihad’, Council on Foreign Relations;
above note 47 (ii); ‘Victims of Palestinian Violence and Terrorism since 2000’, Israeli Ministry of Foreign Affairs; and
above note 1 (iii); ‘Palestinian Islamic Jihad’, Jane’s World Insurgency and Terrorism.

49 See website of the al-Quds Brigades: www.saraya.ps.

50 See:
i. ‘Islamic Jihad Leader Discusses Gaza, Rejects Linking Aid to Palestinian Unity’, interview with Muhammad al-Hindi by Hazim al-Amin and Fathi Sabbah, Al Hayat online, 27 January 2009, BBC Monitoring Middle East, 28 January 2009;

51 See above note 50,
i. (ii); ‘Weapon of Terror: Development and Impact of the Qassam Rocket’, The Washington Institute for Near East Policy; and
ii. (iv); ‘Graveyard Shift for Islamic Jihad: A Visit to a Gaza Rocket Factory’, Speigel Online.
52 See above note 50 (iv); ‘Graveyard Shift for Islamic Jihad: A Visit to a Gaza Rocket Factory’, Speigel Online.

53 Katyusha is a family of rockets developed by the Soviet Union during the second world war, while the Grad was first developed for the Soviet BM-21 rocket launcher during the 1960s. At least some of these rockets are believed to be manufactured in Iran.


54 See:

55 See above note 1 (iii); ‘Palestinian Islamic Jihad’, Jane’s World Insurgency and Terrorism.

56 See above note 43,
   i. (i); ‘Gaza Militant: Stopping Rocket fire into Israel’, Avi Issacharoff, Haaretz, 12 April 2010; and
   ii. (ii); ‘Islamic Jihad: Hamas has secret ceasefire agreement with Israel’, Ma’an news.

57 See above note 42; ‘Shallah to Al-Hayat: Withdrawing the Arab Initiative in the minimum reply by the Summit to the Israeli aggression’, Al-Hayat.

58 See:
   i. above note 1 (iii); ‘Palestinian Islamic Jihad’, Jane’s World Insurgency and Terrorism; and

59 See website of the al-Quds Brigades: www.saraya.ps.

PIJ has limited the use of rockets, however, both as a response to pressure from Hamas, but also because of “the need of the resistance to rebuild its strength and to learn from the experience of the past Gaza war.”

See above note 42; ‘Shallah to Al-Hayat: Withdrawing the Arab initiative is the minimum reply by the summit to the Israeli aggression’, Al-Hayat.

60 See:
   i. ‘Israel Vows ‘Powerful Response’ to Gaza Attacks’, Reuters, http://www.reuters.co/article/idUSTRE6091H620100110, 10 January 2010, last accessed 17 June 2010; and

61 See above note 60 (ii); ‘Israel Air Strike Kills Gaza Militants,’ BBC News.


63 See:
   i. ‘Summary of rocket fire and mortar shelling in 2008’, Israeli Intelligence and Terrorism Information Centre, 2009, p 5, available at: http://www.terrorism-info.org.il/malam_multimedia/English/eng_n/pdf/hamas_e017.pdf, last accessed 28 May 2010; and

64 See:
   i. above note 63 (ii); ‘Goldstone Report’, p.457, referencing The Jerusalem Post, 24 June 2008;
   ii. ‘Ending the War in Gaza’, Middle East Policy Briefing No26, 5 January 2009, International Crisis Group; and

65 See:
2. ‘Militants fire five more rockets at Sderot, PIJ claims firing 27 rockets 13 March’, Ma’an News, 13 March 2008, BBC Monitoring Middle East; and

66 See:
1. above note 63 (ii); ‘Goldstone Report’, p.350 and p.457;
2. above note 64 (ii); ‘Ending the War in Gaza’, International Crisis Group;
3. above note 64 (iii); ‘Human Rights Situation in Palestine and Other Occupied Arab Territories’, UNGA report.

67 See above note 36; ‘Palestinian Factions United by War’, Al Jazeera;
ii. According to statistics on its website, the al-Quds Brigades claimed responsibility for firing 235 mortars and rockets during military operations, ‘Goldstone Report’, p.454.

68 See:
3. See also ‘Rocket Fire from Gaza was a War Crime, says HRW’, Doug Richardson, Jane’s Missiles and Rockets, http://client.janes.com, 3 September 2009, last accessed 3 June 2010; and
4. www.johnstonsarchive.net/terrorism, last accessed 28 May 2010 - 572 rockets and 204 mortar attacks were carried out against Israel during the period 27 December 2008 – 18 January 2009, causing 4 deaths (including 1 police officer), over 160 injuries and nearly 600 cases of ‘shock and anxiety’.

69 See:
2. above note 54 (ii); ‘Israel/OPT: Fuelling Conflict: Foreign Arms Supplies to Israel/Gaza’, Amnesty International; and

70 See above note 69 (i); ‘Turning a Blind Eye: Impunity for Laws of War Violations during the Gaza War’, Human Rights Watch, p.9.

71 See above note 68,
1. (ii); ‘Rockets from Gaza: Harm to Civilians from Palestinian Armed Groups’ Rocket Attacks’, Human Rights Watch; and
2. (iii); ‘Rocket fire from Gaza was war crime, says HRW’, Jane’s Missiles and Rockets.

72 See:
1. above note 69 (i); ‘Turning a Blind Eye: Impunity for Laws of War Violations During the Gaza War’, Human Rights Watch, p.9; and
2. above note 68 (ii); ‘Rockets from Gaza: Harm to Civilians from Palestinian Armed Groups’ Rocket Attacks’, Human Rights Watch, p.2.

73 See above note 63 (ii); ‘Goldstone Report’, pp.461-462.

74 See above note 63 (ii); ‘Goldstone Report’, pp.357-359.
75 See: 
   i. ‘Iron Dome may be ready, but Gaza front is still in danger’, Haaretz, http://www.haaretz.com, 7 January 2010, last accessed 9 June 2010; and 

76 See: 
   iii. above note 47 (ii); ‘Victims of Palestinian Violence and Terrorism since 2000’, Israeli Ministry of Foreign Affairs; and 
   iv. above note 64 (iii); ‘Human Rights Situation in Palestine and Other Occupied Arab Territories’, UNGA report.

77 See: 
   i. above note 64(ii); ‘Human Rights Situation in Palestine and Other Occupied Arab Territories’, UNGA report; 
   iii. above note 76 (ii); ‘Country Reports: Middle East and North Africa Overview’, Country Reports on Terrorism 2008, US State Department; 
   iv. above note 47 (ii); ‘Victims of Palestinian Violence and Terrorism since 2000’, Israeli Ministry of Foreign Affairs; and 
   v. above note 76 (i); ‘Two Israeli Guards killed at plant near West Bank line’, The Washington Post.

78 See: 
   i. above note 77 (ii); ‘Hamas offers Truce in Gaza Strip’, BBC News; 
   ii. above note 76 (ii); ‘Country Reports: Middle East and North Africa Overview’, Country Reports on Terrorism 2008, US State Department; and 


80 See above note 63 (ii); ‘Goldstone Report’, paras 276 to 279.

81 Article 2 of Additional Protocol to the Geneva Conventions Relating to the Protection of Victims of Non-International Armed Conflicts states that the Protocol does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature, as not being armed conflicts.

82 See above note 63 (ii); ‘Goldstone Report’, paras 85 to 92.

83 The principle of distinction is found in Common Article 3 to the Geneva Conventions 1949 and is a recognised principle of customary international humanitarian law (see the International Committee of the Red Cross (ICRC) International Humanitarian Law Study Rule 6 which says civilians are protected against attack, unless and for such time as they take a direct part in hostilities, and Rule 7 which says the parties to the conflict must at all times distinguish between civilian objects and military objectives. Attacks may only be directed against military objectives. Attacks must not be directed against civilian objects.)
An person is * hors de combat * if he or she is wounded, sick or shipwrecked or captured by the opposing force.

ICRC International Humanitarian Law Study Rule 11 states that indiscriminate attacks are prohibited in both international and non-international armed conflict.